



PATENT  
ATTORNEY DOCKET NO. 056100-5022-08

**RECEIVED**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 05 2002

In re Application of:

Chris SOMERVILLE *et al.*

Application No.: 09/885,189

Filed: June 21, 2001

For: PRODUCTION OF HYDROXYLATED FATTY ACIDS  
IN GENETICALLY MODIFIED PLANTS

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TECH CENTER 1600/2900

) Group Art Unit: 1638

) Examiner: E. McElwain

Commissioner for Patents  
Washington, D.C. 20231

Sir:

**RESPONSE TO ELECTION/RESTRICTION REQUIREMENT TRANSMITTAL FORM**

- Transmitted herewith is a Response to the Restriction Requirement mailed October 3, 2002 (Paper No. 10).

- EXTENSION OF TIME**

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

- Applicant petitions for an extension of time, the fees for which are set out in 37 CFR 1.17(a)-(d), for the total number of months checked below:

<u>Total months requested</u>	<u>Fee for extension</u>
[X] one month	\$ 110.00

Extension of time fee due with this request: **\$110.00**

**If an additional extension of time is required, please consider this a Petition therefor.**

3. Constructive Petition

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

4. Fee Calculation (37 C.F.R. § 1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	47	minus	31	16	x \$18 each=	+ \$288.00
Independent Claims (37 C.F.R. §1.16(b))	4	minus	8	0	x \$84 each=	+ \$0
[ ] First presentation of Multiple dependent claim(s)				\$280.00	+ \$	
<b>SUB-TOTAL =</b>						<b>\$288.00</b>
<b>Reduction by 2 for filing by a small entity</b>						<b>- \$</b>
<b>TOTAL FEE =</b>						<b>\$ 288.00</b>

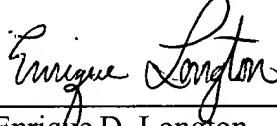
5. Fee Payment

- [ ] No fee is to be paid at this time.
- [X] The Commissioner is hereby authorized to charge \$398.00 (\$110 for one-month Extension of Time, \$288 for excess total claims ) to Deposit Account 50-0310.
- [X] The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 CFR §' 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By:

  
\_\_\_\_\_  
Enrique D. Longton

Reg. No. 47,304

Date: December 3, 2002

Customer No. 009629

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202.739.3000

202.729.3001



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Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**RESPONSE TO ELECTION/RESTRICTION REQUIREMENT**

In response to the restriction requirement in the Office Action mailed October 3, 2002 (Paper No. 10), Applicants respectfully elect, with traverse, to prosecute Group V (claim 13), drawn to oil.

Kindly amend this application as follows:

**IN THE CLAIMS:**

Please cancel claims 1-12 and 14-25 without prejudice or disclaimer. Applicants reserve the right to pursue unclaimed subject matter in related continuing or divisional applications.

Please add the following new claims:

B1  
B2  
B3  
B4  
B5  
B6. Oil obtained from seeds of a transgenic plant, wherein said plant is transformed with a recombinant DNA construct, said construct comprising a nucleic acid sequence encoding a fatty acid hydroxylase that hybridizes to a nucleic acid probe encoding SEQ ID NO:4 under the following conditions:

12/04/2002 SZENDIE1 00000049 500310 09885189  
01 FC:1202 288.00 CH  
02 FC:1251 110.00 CH